

U.S. SENATE,

Washington, DC, September 25, 1996.

Senator ORRIN HATCH,
Chairman, Judiciary Committee.

Senator JOE BIDEN,

Ranking Member, Judiciary Committee.

DEAR ORRIN AND JOE: Last week, the Senate passed a bill you sponsored, the Comprehensive Methamphetamine Control Act of 1996. I understand the House intends to make up a similar bill this week. I strongly support the Senate bill, S. 965, and urge you to work to ensure it becomes law this year.

In these last two months, I have visited with representatives of local, state and federal law enforcement. Over and over, these officials voiced concerns about the increasing manufacture, potency, and availability of methamphetamines. Local and state law enforcement officers said they felt particularly ill-equipped to safely and cost-effectively deal with clandestine labs and the hazardous chemicals they contain. The high cost, technical expertise and time required to investigate and eliminate these labs are hampering law enforcement's ability to protect our young people and communities from the threat not only of methamphetamines, but of other illegal drugs as well.

I pledge my support in any way I can to helping ensure this bill, S. 965, becomes law. I also intend to work within the Appropriations Committee to see that coordination efforts are strengthened and our law enforcement officials have the tools they need to combat this growing threat.

Thank you for all of your work to date on this issue. I look forward to working closely with you on this important public safety issue.

Sincerely,

PATTY MURRAY,
U.S. Senator.

Mrs. MURRAY. Mr. President, I ask unanimous consent that I be added as a cosponsor of S. 965.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. MURRAY. Another important piece to solving this puzzle in the Pacific Northwest is designation of a high-intensity drug trafficking area. I am happy to announce that contained in this bill is \$3 million for the newly created Pacific Northwest HIDTA. This will help enormously as we try to coordinate our efforts among Federal, State, and local law enforcement to fight not only methamphetamines, but all other illegal drugs and drug trafficking in our region.

The Department of Justice has also developed the National Methamphetamine Strategy—April 1996. This report is referenced in a colloquy I will have, in conjunction with this omnibus spending bill, with Chairman HATFIELD and Senator HOLLINGS about the need to address methamphetamines. This plan, which will be partially implemented when S. 965 becomes law, lays out a legislative, law enforcement, training, chemical regulation, international cooperation, environmental protection, public awareness, educational, and treatment strategy. The multidisciplinary, multijurisdictional program provides the needed comprehensive approach to this problem.

Finally, money is critical. While I do not support simply throwing Federal dollars at this problem, the need for

Federal support to help in coordination activities, technical assistance, and training cannot be minimized. In the bill we have before us, we make some major improvements in our war against these and other drugs. The DEA's budget was increased by 23 percent—that's a start. The U.S. Attorneys Office received funding for additional attorney's, which are critically needed. The Office of National Drug Control Policy received new money and additional HIDTA's. So, I believe this budget moves us in the right direction.

As I have suggested in the colloquy, I intend to work with my colleagues in Congress and in the administration to develop a funding and technical assistance strategy to address the unique problems posed by methamphetamines and clandestine labs. Our local and State law enforcement officials simply must have adequate money, training, and technical expertise to address the costly and dangerous threats posed by clandestine labs. I will then work to ensure funds are targeted to this vital area in the fiscal year 1998 budget.

Mr. President, as with all social and criminal problems, change can only occur if and when we all do our part. I pledge to work with Federal, State and local law enforcement, community leaders, my colleagues, and others to find a way to stop the spread of illegal drugs, including methamphetamines. I am committed to improving the quality of life, safety, and security of our children and communities. I look forward to continuing this important work in the 105th Congress.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BROWN). The clerk will call roll.

The legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. COATS). Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I ask unanimous consent to proceed as in morning business for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Massachusetts is recognized for a time period not to exceed 15 minutes.

FEDERAL EXPRESS ANTI-LABOR RIDER TO FAA REAUTHORIZATION BILL

Mr. KENNEDY. Mr. President, I strongly support the FAA reforms, but I strongly object to the anti-labor rider that the Republican leadership has attached to this bill.

This controversy is a good example of why the sun is setting on the Republican majority in Congress. As their parting shot at American workers in the closing hours of this Congress, the Republican leadership is demanding that an unacceptable anti-labor rider

be attached to this needed aviation security bill.

That riders is special interest legislation of the worst kind. It is designed to help Federal Express Corp. block the ongoing efforts of its truckdrivers in Pennsylvania to join a union.

Federal Express is notorious for its anti-union ideology—but there is no justification for Congress to become an accomplice in its union-busting tactic. I intend to do all I can to see that this anti-worker rider does not become law. It has no place on the FAA bill, and it deserves no place in the statute books.

I believe that as the facts of this controversy become widely known, working men and women across America will be shocked at the lengths to which the Republican majority in Congress is willing to go in their attempt to enact their anti-worker ideology into law.

Why is Federal Express willing to go to such drastic lengths to force this rider into law? Because they see the sun setting on the Republican anti-worker majority in Congress, and they know there is no hope that their special interest provision will be enacted by a Democratic proworker majority in Congress.

On September 26, under the guise of a technical correction to the Railway Labor Act, an unacceptable special interest provision was attached to the FAA reauthorization bill.

This provision is in no sense a technical correction. It makes a significant change in Federal law to give the Federal Express Corp. an edge in its blatant attempt to stop some of its employees from joining a union.

Under present law, airline employees are covered by the Railway Labor Act, which requires employees to form a nationwide bargaining unit if they wish to have a union. Truck drivers, however, historically have been subject to the National Labor Relations Act, which allows smaller bargaining units to be established on a more local basis.

This split coverage makes sense. It has been national labor policy since the 1930's, when the National Labor Relations Act was passed and the Railway Labor Act was amended to cover airlines as well as railroads.

United Parcel Service, which has both airline and trucking components of its business and competes with Federal Express, is covered by the Railway Labor Act for its airline operations and by the National Labor Relations Act for its trucking operations. UPS truck drivers formed local unions decades ago pursuant to the National Labor Relations Act, and are members of the Teamsters Union.

Federal Express truck drivers are not unionized. However, truck drivers at the Pennsylvania facilities of Federal Express have been trying for nearly 2 years to organize and become members of the United Auto Workers. The drivers filed a petition for a union election with the National Labor Relations Board in January 1995.

Federal Express challenged the petition, arguing that the entire company,

including its truck drivers, is covered by the Railway Labor Act, not the National Labor Relations Act, and that therefore the bargaining unit for its truck drivers must be nationwide. The Board has not yet decided the issue.

This is a matter that is currently in litigation, even while we are here today. We ought to let the litigation move forward. But the action that was taken on the FAA bill has preempted effectively the litigation which is under consideration even as we meet here this afternoon.

In the final days of this Congress, Federal Express is trying to short-circuit the NLRB process by including an amendment in the FAA reauthorization bill to guarantee that its truck drivers are covered by the Railway Labor Act, and thereby block local union-organizing efforts by its truck drivers in Pennsylvania and elsewhere.

You can say, "Why not just let them proceed under the existing law, either they have the support and have the votes or they don't?" And let the National Labor Relations Board make a judgment as to whether the Railroad Act applies to them or whether they would be treated under the National Labor Relations Act.

Just under 3 weeks ago, the Senate Appropriations Committee defeated an attempt to add the Federal Express rider to the Labor-HHS appropriations bill. The attempt failed on a 10 to 10 tie vote. Earlier, in the House of Representatives, Republicans tried to add the provision to the railroad unemployment compensation bill, which had overwhelming bipartisan support. The attempt created so much controversy that Republicans quickly abandoned the effort.

It makes no sense to tie this objectionable provision to important legislation like the FAA bill. This bill authorizes the FAA's programs for 2 years. It provides for needed improvements in the Nation's airports. It streamlines the FAA's construction program to improve its efficiency and make it less complicated.

The bill also contains important safety measures, including needed provisions to improve security at the Nation's airports. It is a good bill, deserves to pass, without the special interest rider for Federal Express.

Supporters of the Federal Express rider claim that it is simply a technical correction. That is false. In 1995, as part of the act terminating the Interstate Commerce Commission, Congress deleted the term "express company" from the Interstate Commerce Act and the Railway Labor Act.

We deleted that term because the last express company, the Railway Express Agency, went bankrupt in the early 1970's. In a true "technical correction," Congress deleted this obsolete language from the statutes where it appeared.

The deletion of "express company" from section 1 of the [Railway Labor Act] does not appear to have been inadvertent or mistaken.

This is the conclusion of the Congressional Research Service. We had distributed to us a number of pieces of paper from some of the House Members who had been active in initiating these provisions. They make the point that this was really a technical amendment and was really because it was inadvertent that this language was left out of the restructuring of the interstate commerce legislation in 1995 when we eliminated the Commission.

This is, according to the Congressional Research Service, their conclusion of analyzing the history of this proposal:

The deletion of "express company" from section 1 of the [Railway Labor Act] does not appear to have been inadvertent or mistaken. To the contrary, the deletion appeared to be consistent with the statutory structure and the intent of Congress. Since the [Railway Labor Act] coverage had been triggered by federal regulation of express companies, it appears logical and necessary to eliminate the cross-reference to Title 49 from the RLA to preclude ostensible coverage of nonexistent express companies. The elimination of "express company" from the RLA therefore appears to have been a necessary step in harmonizing the RLA with the revised Title 49 of the U.S. Code.

So here is the Congressional Research Service, when they are asked—as this is an action that was just taken on Friday of last week—whether the changing of this with the legislation is just correcting a technical oversight or whether the elimination of those words of art "express company" was intentional, their review of the history shows it was intentional.

It passed virtually unanimously in the House and the Senate for the reasons that have been expressed in their memoranda. We will include that as a part of the RECORD. So this was not a technical correction.

But Federal Express was not and is not an "express company" within the meaning of the Railway Labor Act or the Interstate Commerce Act. They define exactly what is an "express company" and what has not been. They have been defining that for a long period of time, for a period of years. And they have made that judgment to date.

The Interstate Commerce Commission defined that term as a company that provided expedited services in handling small, highly valuable packages over regular routes and by a regular schedule. The ICC did not consider FedEx to be an express company because it did not use regular routes and a regular schedule. Instead, the ICC viewed FedEx as a "motor carrier."

Federal Express argued to numerous courts that it was a so-called express company, but no court ever adopted the arguments, and at no point did the ICC ever set rates for Federal Express as an express company.

Federal Express claims it is an express company because it is the successor to the Railway Express Agency. A Federal Express subsidiary bought some of Railway Express' operating certificates in the 1970's, but those cer-

tificates covered motor carrier operations and not express company operations. In any event, Federal Express never operated under those certificates. Even if Federal Express were a successor to Railway Express' motor carrier operations, it is not a successor to its "express operations."

In closing, it is important to look beyond the legal technicalities and talk about what is really at stake here. Hundreds of truckdrivers in the State of Pennsylvania want to join the United Auto Workers and bargain with Federal Express over the terms and conditions of their employment.

Federal Express is trying to deny those employees their right to organize. That is basically the issue. We are being asked, as an amendment to the Federal Aviation Act, to intercede in terms of a labor dispute. That is a decision that we have to make. It is only for the benefit of one particular company. That is Federal Express. It does not have application to any other company. Just one company. Just one company. That particular provision was put in here at the end of last week, just hours before we are supposed to adjourn. It will have a very significant and important impact in terms of that particular company over a significant period of time in its ability to compete with other companies.

UPS, for example, certain parts of it deal with the Railroad Act with regard to its air carrier provisions. Those provisions that apply to trucking deal with the National Labor Relations Act. They have a division. They have been able to make that kind of adjustment. But not Federal Express. They want to be able to have the legislation of the Railway Act to apply to the trucking industry. That has a special significance at the present time that will effectively legislate the outcome of a particular labor difference.

We here in the Senate ought to be about passing this FAA bill. This FAA bill is enormously important for the airlines, the communities all across this country. I heard great eloquence earlier today about the importance of this legislation in terms of smaller rural communities. I am in strong support of it.

None of us who support the position which I have outlined, which is effectively to strike this language and send the whole FAA authorization over to the House—there is every indication they would be willing to accept it. There was a relatively close vote over in the House of Representatives on this particular item. The House narrowly accepted the technical changes, the alleged technical changes, which have been included here.

But I do not know why we should be delaying airline safety for a special-interest provision. We ought to pass the airline safety provisions and get them down to the White House and get the President to sign those provisions, rather than taking the time of the Senate to skew the legislation to a particular outcome with regard to a labor

dispute, and that is what is happening here.

We are asked about whether we are prepared to hold this legislation up. The fact of the matter is this FAA legislation could pass as far as I am concerned immediately with unanimous consent this afternoon, right now.

Federal Express is the one that is holding this up. They are the ones that are holding this up. We will have a chance to get into that in greater detail over these next few days to see whether they are justified in that particular provision. I do not believe they are justified in it.

The effective impact, Mr. President, is, as we know, that if it is defined that this particular group, those who drive trucks, are going to be defined as being air carriers—which is effectively what they want to be able to try to do because air carriers have the requirements of having a national board or a national group in order to be able to bargain collectively, because of the definition of "air carrier." But we have not done that with regard to the trucking industry.

We have not done that with regard to the trucking industry. Now, Federal Express wants to have that same application for local trucking companies, and the local truck companies say, "Let us bargain. Let us become a union. Let us make a judgment decision whether we favor to become a union or not and if we do, let us be able to bargain collectively." Federal Express says, "No, you have to have a national organization. You truckers that are there in small towns have to be able to get the people in the Far West, every community in this country that is served by Federal Express, get every local trucking driver and get a national organization or a national board." That is what Federal Express wants to be able to do.

Now, that is such a convoluted interpretation of what the history and the interpretation of either the Railway Act or the National Labor Relations Act is as to be stunning. And they want to do it on this legislation. They are not even prepared to let it go to the committee and have hearings and hear about it. No, they want it on this legislation, and they want to do it for this one company, for this one company.

So, Mr. President, we are asked to just roll over. That is the effect. This idea that it is just an oversight, as I mentioned earlier, I think we ought to not look just at what the proponents are trying to suggest, but for the analysis done by the Congressional Research Service that has reviewed the history. There will be those that will say this is not really affecting workers' rights. Of course it does. It affects a particular situation that is taking place today in Pennsylvania that is under review in litigation today. Are we prepared to say, "Let the litigation come to end?" No, no, we are not. We are prepared to impose, we are prepared to impose a legislative answer on that.

I yield the floor.

The PRESIDING OFFICER (Mr. STEVENS). The Senator from South Carolina.

Mr. HOLLINGS. I ask unanimous consent to continue now for 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

FEDERAL AVIATION ADMINISTRATION REAUTHORIZATION ACT

Mr. HOLLINGS. Mr. President, I just returned to the city a short time ago, and I am sorry I did not hear the arguments earlier today relative to the FAA authorization bill, nor did I have an opportunity to hear my distinguished colleague from Massachusetts and all of his comments, but I was interested as I walked in to hear him talk about safety.

Mr. President, there is a special interest. My colleague was talking about a special interest. There is a special interest that I would like to represent that is best delineated by none other than Mark Twain. Mark Twain said, "Truth is such a precious thing it should be used very sparingly." I represent that special interest of truth on this particular matter, and the facts will sustain it.

What happens is we had the ICC Termination Act last year, and in the enrolling, the final drafting up of the document for the President's signature, everyone had gone. There was just staff there checking. Here is a case of the railway express being sent to the lawyer at ICC who said, "I think you can just leave that out." The two little words "express carrier" were deleted from the ICC Termination Act.

However, there is no question, no one knows of this. I challenge the Senator from Massachusetts who feels so strongly and wants to tell us about cases he can read to the Members, I challenge the Senator to point to me, the Senator point to me, the House Member, who said I wanted to make sure I introduced it, or I brought it up or I discussed it.

The reason I emphasize that, because my colleague now talks about jamming, and at the last minute changing and whatever it is. What the Senator from South Carolina wants to do is correct that jamming, if that is what it was. He said it was intended. I have not seen the CRS opinion, but I will get it. That specifically is in contradiction to the Termination Act.

I will read from the act of 1995, December 15, just last year, section 10501 "General Jurisdiction." "The enactment of the ICC Termination Act of 1995 shall neither expand nor contract coverage of employees and employers by the Railway Labor Act."

So, there is a manifest intent of the Congress. They were not affecting rights that now we are trying to grab and change around. Heavens above, since this institution, Federal Express is an air carrier, has been, to the sur-

prise of many, governed by the Railway Labor Act.

In fact, they had a hearing on the day he is talking about over in Philadelphia and they have already ruled. They ruled November 22, 1995, that Federal Express had taken the right position. They did not rely on the express language in the ICC Act, but general law where they find them both as an air carrier and as an express carrier. Everyone that has practiced in this particular field will tell you that is the format of law. Some will contend, what is the matter if the law has not changed? I am trying to change an ambiguity, but more than that, I am trying my best to forestall an assault on the truth and the facts, an assault a bunch of Washington lawyers trying to take advantage of a mistake.

Teamsters—I keep hearing in the Halls, "the Teamsters, the Teamsters, the Teamsters" have the Senator from Massachusetts all balled up on this and he has to go to bat for them. I have more Teamsters than any kind of Federal Express, just with regular delivery services, I imagine. We have \$100 million United Parcel Service facility there and the finest Teamster crowd you have ever seen. We have them at Owens Corning and Mack Truck, and otherwise they have been very supportive of this Senator. They have not told me of a conflict. Another Senator earlier today said just exactly that.

The idea that we are coming here at the last minute—what happened after that, the mistake was determined at the end of February or the beginning of March over on the House side. When they learned that, Mr. President, they put in a measure which was blocked. I was asked—because I am the ranking member of the particular committee with the ICC, as the distinguished Presiding Officer knows—"Well, it happened on your watch; do you mind correcting this mistake," and I say, "Not at all."

I presented it in the Appropriations Committee we had an 11-11 vote, not 10-10. I did not have the proxies or we would have passed it, and the mistake would have been corrected. I did not bother with it. I thought everybody would want to correct an innocent mistake.

Come now, Mr. President, with the idea we are trying to jam or hold up safety legislation or the FAA bill, or this is not the place for it, and everything else at the last minute is totally out of the whole cloth. They know differently. They are playing their political strength.

I do not know that Federal Express has got much political clout because they are not in South Carolina, and I am not that familiar with them, but I do know that I am not only keenly interested in the truth but I am interested in the operation. I might as well plead guilty on this score because, Mr. President, 10 years ago when I was trying to find hay for the farmers and